

Federal Deposit Insurance Corporation

§ 369.5

updated periodically by the appropriate Federal banking agencies and made available to the public.

(f) *Out-of-State bank holding company* means, with respect to any State, a bank holding company whose home State is another State.

(g) *State* means state as that term is defined in 12 U.S.C. 1813(a)(3).

(h) *Statewide loan-to-deposit ratio* means, with respect to a bank, the ratio of the bank's loans to its deposits in a state in which the bank has one or more covered interstate branches, as determined by the FDIC.

[62 FR 47737, Sept. 10, 1997, as amended at 67 FR 38848, June 6, 2002]

§ 369.3 Loan-to-deposit ratio screen.

(a) *Application of screen.* Beginning no earlier than one year after a covered interstate branch is acquired or established, the FDIC will consider whether the bank's statewide loan-to-deposit ratio is less than 50 percent of the relevant host State loan-to-deposit ratio.

(b) *Results of screen.* (1) If the FDIC determines that the bank's statewide loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration under this part is required.

(2) If the FDIC determines that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's statewide loan-to-deposit ratio, the FDIC will make a credit needs determination for the bank as provided in § 369.4.

[62 FR 47737, Sept. 10, 1997, as amended at 67 FR 38848, June 6, 2002]

§ 369.4 Credit needs determination.

(a) *In general.* The FDIC will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities in the host state that are served by the bank.

(b) *Guidelines.* The FDIC will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(1) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(2) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(3) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(4) The Community Reinvestment Act (CRA) ratings received by the bank, if any, under 12 U.S.C. 2901 *et seq.*;

(5) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(6) The safe and sound operation and condition of the bank; and

(7) The FDIC's Community Reinvestment regulations (12 CFR Part 345) and interpretations of those regulations.

§ 369.5 Sanctions.

(a) *In general.* If the FDIC determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the FDIC:

(1) May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the FDIC, after an opportunity for public comment, that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(2) Will not permit the bank to open a new branch in the host state that would be considered to be a covered interstate branch unless the bank provides reasonable assurances to the satisfaction of the FDIC, after an opportunity for public comment, that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(b) *Notice prior to closure of a covered interstate branch.* Before exercising the FDIC's authority to order the bank to

close a covered interstate branch, the FDIC will issue to the bank a notice of the FDIC's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(c) *Hearing.* The FDIC will conduct a hearing scheduled under paragraph (b) of this section in accordance with the provisions of 12 U.S.C. 1818(h) and 12 CFR part 308.

PART 370—TEMPORARY LIQUIDITY GUARANTEE PROGRAM

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AUTHORITY: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818, 1819(a)(Tenth); 1820(f), 1821(a); 1821(c); 1821(d); 1823(c)(4).

SOURCE: 73 FR 72266, Nov. 26, 2008, unless otherwise noted.

§ 370.1 Scope.

This part sets forth the eligibility criteria, limitations, procedures, requirements, and other provisions related to participation in the FDIC's temporary liquidity guarantee program.

§ 370.2 Definitions.

As used in this part, the terms listed in this section are defined as indicated below. Other terms used in this part that are defined in the Federal Deposit Insurance Act (FDI Act) have the meanings given them in the FDI Act except as otherwise provided herein.

(a) *Eligible entity.*

(1) The term “eligible entity” means any of the following:

(i) An insured depository institution;

(ii) A U.S. bank holding company, provided that it controls, directly or indirectly, at least one subsidiary that

is a chartered and operating insured depository institution;

(iii) A U.S. savings and loan holding company, provided that it controls, directly or indirectly, at least one subsidiary that is a chartered and operating insured depository institution; or

(iv) Any other affiliates of an insured depository institution that the FDIC, in its sole discretion and on a case-by-case basis, after written request and positive recommendation by the appropriate Federal banking agency, designates as an eligible entity; such affiliate, by seeking and obtaining such designation, also becomes a participating entity in the debt guarantee program.

(b) *Insured Depository Institution.* The term “insured depository institution” means an insured depository institution as defined in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2), except that it does not include an “insured branch” of a foreign bank as defined in section 3(s)(3) of the FDI Act, 12 U.S.C. 1813(s)(3), for purposes of the debt guarantee program.

(c) *U.S. Bank Holding Company.* The term “U.S. Bank Holding Company” means a “bank holding company” as defined in section 2(a) of the Bank Holding Company Act of 1956 (“BHCA”), 12 U.S.C. 1841(a), that is organized under the laws of any State or the District of Columbia.

(d) *U.S. Savings and Loan Holding Company.* The term “U.S. Savings and Loan Holding Company” means a “savings and loan holding company” as defined in section 10(a)(1)(D) of the Home Owners' Loan Act of 1933 (“HOLA”), 12 U.S.C. 1467a(a)(1)(D), that is organized under the laws of any State or the District of Columbia and either:

(1) Engages only in activities that are permissible for financial holding companies under section 4(k) of the BHCA, 12 U.S.C. 1843(k), or

(2) Has at least one insured depository institution subsidiary that is the subject of an application under section 4(c)(8) of the BHCA, 12 U.S.C. 1843(c)(8), that was pending on October 13, 2008.

(e) *Senior Unsecured Debt.*

(1) The term “senior unsecured debt” means